
Appeal Decision

Site visit made on 5 December 2016

by C L Humphrey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3rd February 2017

Appeal Ref: APP/W0734/W/16/3158620

Park End Clinic, Overdale Road, Middlesbrough TS3 7EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Hardip Singh against the decision of Middlesbrough Borough Council.
 - The application Ref M/FP/0723/16/P, dated 3 May 2016, was refused by notice dated 19 August 2016.
 - The development proposed is change of use from medical centre (D1) to form 4no retail units (A1).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the appeal proposal on the vitality and viability of the Penrith Road Local Centre.

Reasons

3. The appeal site is located on the northern side of Overdale Road and is occupied by a vacant single storey building which was previously used as a medical centre. The appeal relates to the proposed change of use of the building to retail.
 4. Retail development is defined as a main town centre use in the glossary to the National Planning Policy Framework (the Framework). The appeal site is located outside any existing town, district or local centre as defined by Policy CS13 of the Middlesbrough Local Development Framework Core Strategy (the Core Strategy). Part (c) of Policy CS13 seeks to safeguard the retail character and function of centres by resisting developments that detract from their vitality and viability. This approach is consistent with Part 2 of the Framework, which seeks to ensure the vitality and viability of town centres.
 5. The appeal scheme would create a row of 4 fairly small retail units (3 of around 100m² and 1 of around 170m²). The proposed units would be set behind a car park and face south towards Overdale Road, which is a bus route. As such the development would have the appearance and presence of a small local centre and indeed I note that the appellant describes the proposed development as a 'convenience type shopping center' [sic].
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6. The proposed development would be located around 250m from the small Penrith Road local centre, a walk of less than 5 minutes, and would be nearer to many of the surrounding areas of housing which the existing local centre serves.
7. Based on the submitted evidence and my observations on site, the proposed retail units would be of a comparable size to the 7 units at Penrith Road local centre. At the time of my site visit I noted that 1 of these units appeared to be vacant and the remainder were occupied by a post office, convenience store, hairdressers, bookmakers, sandwich shop and hot food takeaway.
8. Although this occupancy rate seems reasonably healthy, the proximity of the appeal proposal to the existing centre, its prominent location on a bus route and close to housing development, and the number and size of the proposed retail units are all factors which would be likely to divert custom and businesses from the Penrith Road local centre and thus weaken its vitality and viability.
9. It is acknowledged that the Design and Access Statement carried out a sequential test in respect of other centres known as Berwick Hills and Lealholme Crescent. Nevertheless, the Council did not identify any concerns about the effect of the appeal scheme on the retail function of these centres.
10. Whilst there has been a good market response to the proposed units, meaning that the scheme may be economically viable, this does not outweigh the harm to the existing local centre which I have identified. Although the appellant states that the Council has previously indicated support for one large retail unit on the appeal site, I have no evidence of this. Moreover, the appeal proposal relates to a different scheme to create 4 retail units and I have to reach my conclusions on the basis of the proposed development and evidence before me.
11. In view of the above, I therefore conclude that the appeal proposal would have a harmful effect on the vitality and viability of the Penrith Road Local Centre and would thus be contrary to Policy CS13 of the Core Strategy and to Part 2 of the Framework.
12. Although the Council has referred to Policy REG29(d) of the Middlesbrough Local Development Framework Regeneration Development Plan Document, I do not consider this policy is directly relevant to the main issue because it relates to other complementary uses (including use Class A2 and A3 and community uses) within defined local centres. Therefore, I have not had regard to it on this occasion.

Other matters

13. The proposed development would be located nearer to some residential properties than nearby centres, which may encourage some customers to walk or cycle, and it would also be served by public transport routes. The scheme would result in the creation of jobs, and would bring back into use a vacant building.
14. The Council concludes the scheme is acceptable in relation to its effect on the character and appearance of the area and the living conditions of neighbouring residents. Based on the evidence before me and my observations on site of the appeal property and its relationship to surrounding development, I see no reason to take a different view.

15. However, I do not consider that the benefits of the appeal proposal with regard to sustainable transport, employment and reuse of the building, and the absence of harm in relation to character and appearance and living conditions, would outweigh the harm I have identified in respect of the main issue.
16. I note the matters raised by the Council in relation to access, parking and servicing however, because I have found harm in relation to the main issue, I have not considered these issues further.

Conclusion

17. For the reasons set out above and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

C L Humphrey

INSPECTOR